Ontario

NTARIO ENTAL OUSING RIBUNAL

ANNUAL REPORT
2003-2004

Minister of Municipal Affairs and Housing

Minister Responsible for Seniors

777 Bay Street, 17th Floor
Toronto ON M5G 2E5
Tel. (416) 585-7000
Fax (416) 585-6470
www.mah.gov.on.ca

Ministre des Affaires municipales et du Logement

Ministre délégué aux Affaires des personnes âgées

777, rue Bay, 17e étage
Toronto ON M5G 2E5
Tél. (416) 585-7000
Télec. (416) 585-6470
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TO THE LIEUTENANT GOVERNOR
OF THE PROVINCE OF ONTARIO

MAY IT PLEASE YOUR HONOUR:

For the information of Your Honour and the Legislative Assembly, we have the privilege of presenting the Annual Report of the Ontario Rental Housing Tribunal for the 2003-2004 fiscal year.

Respectfully submitted,

Hon. John Gerretsen
Minister of Municipal Affairs and Housing

Ontario Rental Housing Tribunal

Office of the Chair

777 Bay Street, 12th Floor
Toronto ON M5G 2E5
Telephone: (416) 585-7295
Facsimile: (416) 585-6363

Tribunal du logement de l'Ontario

Bureau de la présidente

777, rue Bay, 12e étage
Toronto ON M5G 2E5
Téléphone : (416) 585-7295
Télécopieur : (416) 585-6363

Ontario

TO THE HONOURABLE JOHN GERRETSEN
MINISTER OF MUNICIPAL AFFAIRS AND HOUSING

MINISTER:

I have the honour to submit the Ontario Rental Housing Tribunal's Annual Report for the 2003-2004 fiscal year.

Respectfully submitted,

Beverly Moore

Beverly Moore
Interim Chair
Ontario Rental Housing Tribunal

106-03414/

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Chair's Message

This is the sixth Annual Report of the Ontario Rental Housing Tribunal. Our Annual Reports coincide with the government's fiscal year; therefore, this Report will cover the period from April 1, 2003 to March 31, 2004.

Celebrating our fifth anniversary as a Tribunal we continue to be an active leader in the agency community. We continue to streamline our operations, with client service offices all successfully co-located with Government Information Centres. The Tribunal's co-located offices are considered cutting-edge examples of integrated public service delivery.

During this fiscal year the Tribunal saw the departure of many founding adjudicators as they moved on to greater challenges at the end of their terms. We welcomed many new adjudicators who have received extensive training both in-house and externally through the Society of Ontario Adjudicators and Regulators. Despite challenges of training many new members, adjudicators have been able to keep up with the workflow, with no significant delays in the issuance of orders.

On the technology front, the call centre continues to improve and to be an outstanding example of how technology transforms service delivery. So much so that the call centre was chosen to provide support to the Premier's OPS-wide consultations by handling telephone responses on their behalf.

The Tribunal continues to take a phased approach to comply with the Governments commitment to multi-channel service delivery. We are currently working towards electronic filing capabilities and hope to have this technology in place in the near future.

Sincerely,

Beverly Moore, Interim Chair
Ontario Rental Housing Tribunal

THE TENANT PROTECTION ACT

The *Tenant Protection Act, 1997,* (TPA), was proclaimed on June 17, 1998.

The four primary objectives of the TPA are:

- To simplify the relationship between landlords and tenants
- To balance the needs of landlords and tenants
- To create an efficient process that deals with disputes quickly
- To create a cost-efficient process

The *Tenant Protection Act* provides a one-window service to landlords and tenants and offers a timely method for the resolution of disputes between landlords and tenants.

Under the previous legislation, disputes between landlords and tenants were settled through the provincial court system. The court system was formal and costly, and dispute resolution often took a long time.

As well, the previous legislation had a separate system: the Rent Control Program oversaw the regulation of rent increases and provided information resources for tenants and landlords.

The need to provide a one-window service to tenants and landlords was clear. As a result, the *Tenant Protection Act* consolidated the two systems and created an independent, quasi-judicial agency – the Ontario Rental Housing Tribunal.

Since proclamation, the *Tenant Protection Act* has been amended by the *Red Tape Reduction Act* in fiscal 2001-2002 and during the fiscal 2002-2003 by the *Government Efficiency Act*. Many of the amendments clarify existing rules in the TPA while other amendments have added new rights for landlords or tenants and change how the law applies.

THE ROLE OF THE ONTARIO RENTAL HOUSING TRIBUNAL

The role of the Tribunal is to:

- Resolve tenant and landlord disputes through either adjudication or mediation
- Determine legal above guideline rent increases with respect to residential units
- Provide landlords and tenants with information about their rights and obligations

The Tribunal focuses solely on residential rental accommodation issues and offers a process that is more efficient than previous systems for resolving landlord and tenant matters.

The Adjudication Process

The Tribunal was designed to create a more informal environment for the resolution of disputes between landlords and tenants. Under the adjudication process:

- Disputes are heard in public buildings rather than courtrooms
- Tenants may choose to represent themselves and may consult an on-site legal aid representative
- The more conciliatory approach of mediation is encouraged before the hearing process begins or on the day of the hearing if the adjudicator feels that the matter lends itself to mediation
- The Tribunal's adjudicators are highly qualified professionals who have both the experience and the knowledge to deal quickly and fairly with the issues. Adjudicators are appointed to the Tribunal after undergoing a rigorous and competitive interview and selection process.

Adjudicators from across the province meet formally twice a year to discuss issues. They also meet more frequently and informally in their regions. Many of them sit on committees and working groups such as the Rules and Guidelines Committee, groups to review the format of orders and other groups that gather opinions on specific issues. Members' meetings also contain elements of training such as conduct of a hearing, natural justice, and amendments to the TPA and to other relevant legislation such as the *Statutory Powers Procedure Act.*

The Mediation Process

Mediation is offered under the Tribunal's legislation. It is often used to clarify issues and reduce areas of dispute so that the hearing may proceed more expeditiously. Mediated settlements are more flexible in their content than Tribunal orders. This often assists parties in reaching a satisfactory conclusion to their difficulties. Mediators use both their knowledge of rent regulation and their negotiation skills to assist landlords and tenants in resolving their applications and their concerns.

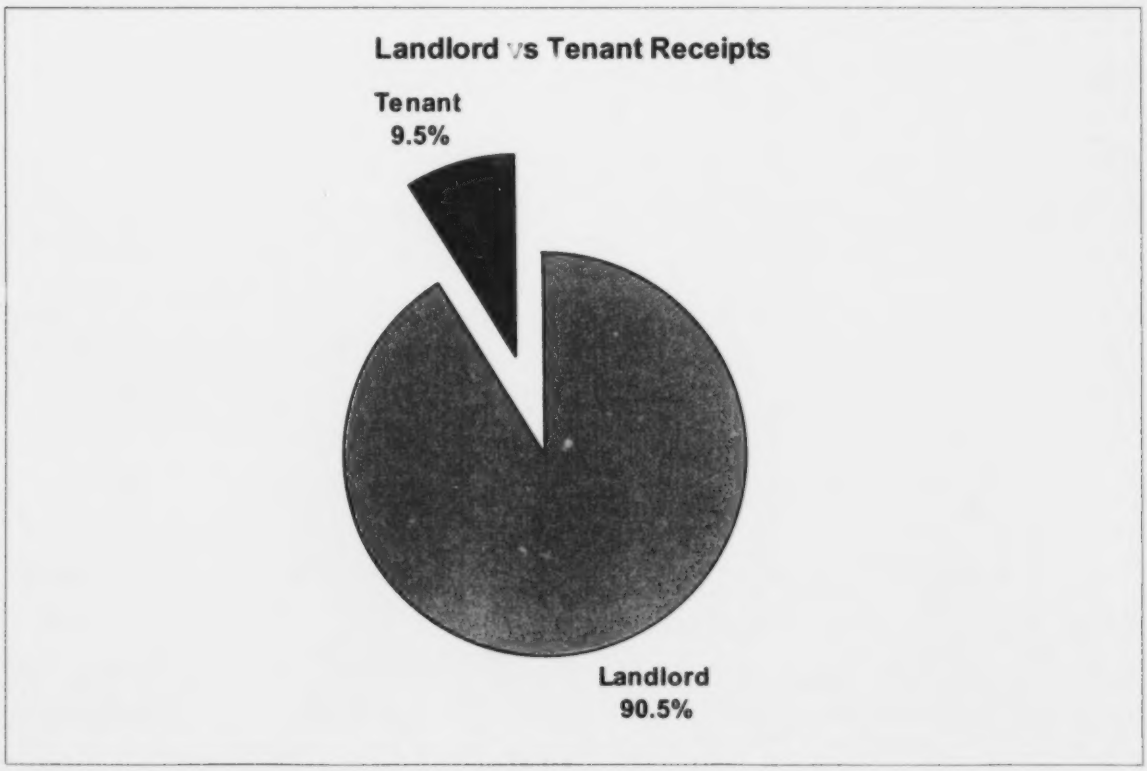
During the fiscal year of 2003/2004, approximately 15.6 per cent of the Tribunal's applications were successfully mediated. This is up from 14.4 percent last year. More difficult to quantify is the benefit of resolving only some of the issues in an application. Although these applications still have to be heard, the hearing takes a much shorter time because many of the issues have already been resolved through mediation. We are trying to focus our mediation on the more complex applications. Many tenant applications benefit greatly from mediation and we concentrate much of our resources on these. We have had success in mediating Above Guideline Increase applications, which saves all parties lengthy hearings and provides a quicker resolution of the issues.

Statistical Information for the Fiscal Year 2003-2004

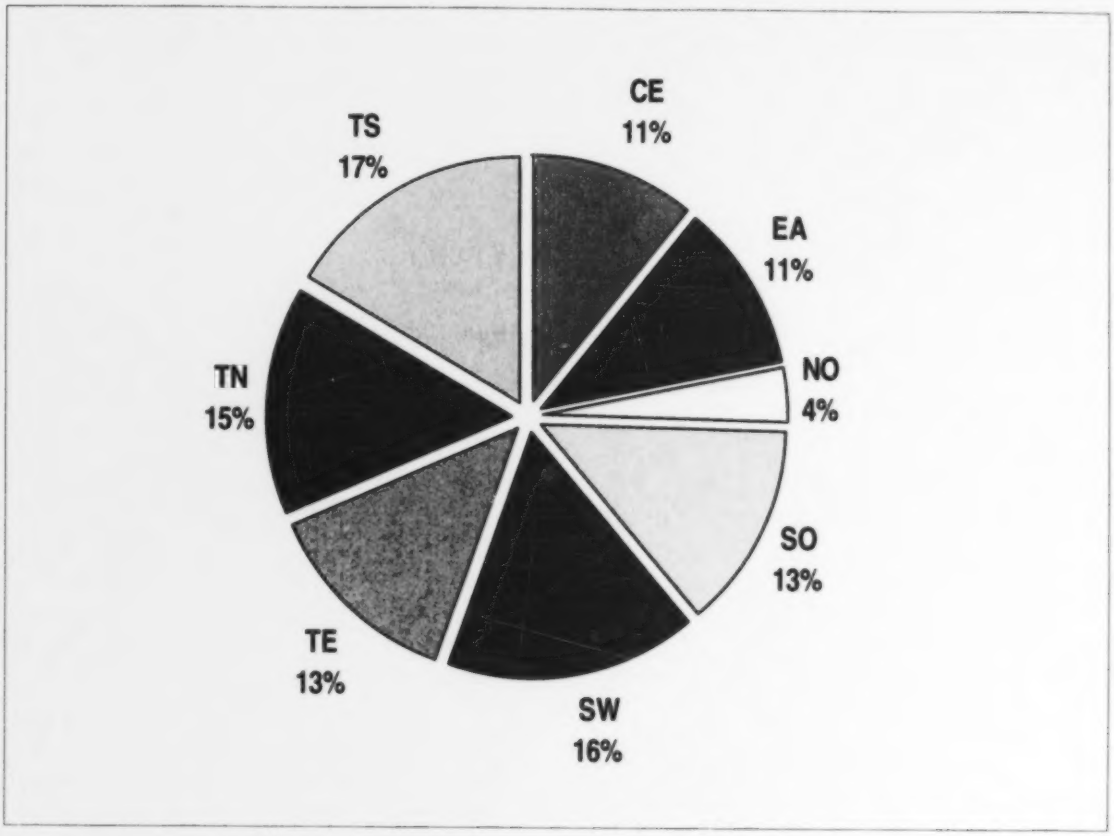
Applications

During the 2003-2004 fiscal year, the Tribunal received 70,004 applications and resolved 71,668. (Because the Tribunal resolves re-opened mediation and set-asides, some applications may generate more than one resolution.) At the end of the fiscal year, 5789 applications were still in progress.

The distribution of application receipts for the 2003-2004 fiscal year remains unchanged from the last fiscal period and are in the following profile:



The regional distribution of applications is as follows:



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Eviction applications have been in the majority since the Tribunal began in 1998. This year, the trend has continued. Of the total applications received by the Tribunal, 73.15 per cent were for termination of tenancies because of arrears of rent. This is slightly up from 71.70 per cent last year. Tenant applications accounted for 9.51 per cent of the applications filed during this fiscal year. This is up from 9.48 per cent last year. Although the increase is minimal, the Tribunal has seen an upward trend over the last couple of years.

Above Guideline Rent Increase Applications

An average of 251 applications for above guideline rent increases were received each year under the *Rent Control Act*. During the first year of Tribunal operations, 887 applications for above guideline rent increases were received. In the fiscal year 2000-2001, 608 applications were received. During fiscal year 2002-2003, only 471 above guideline rent increase applications were received, a substantial decrease from the previous fiscal year 2001-2002 where the Tribunal received 1608. The increase for fiscal 2001-2002 in above guideline rent increase application receipts was mainly the result of landlords experiencing an extraordinary increase in the cost of utilities, specifically a spike in gas prices. During this fiscal year, 292 applications were received.

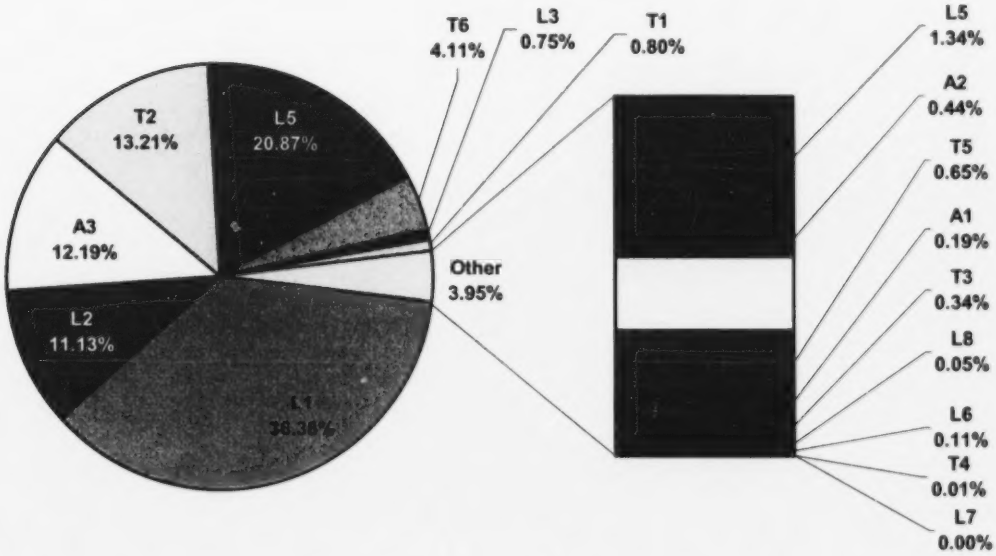
Although the Tribunal received approximately half as many above guideline rent increase applications in comparison to the previous fiscal period, these applications continue to take a disproportionate amount of time both for adjudicators and staff. These applications continue to make up less than 1 per cent of the total applications received, and account for 20.87 per cent of the Tribunal's time.

Mediation is helping us with this workload, although we continue to look for other ways to increase our efficiency and speed up the resolution process.

The charts on the following two pages show the distribution of the Tribunal's workload, by type of application and disposition method (default or hearing), as well as a distribution of application type by hearing time.

Workload for Fiscal 2003/2004

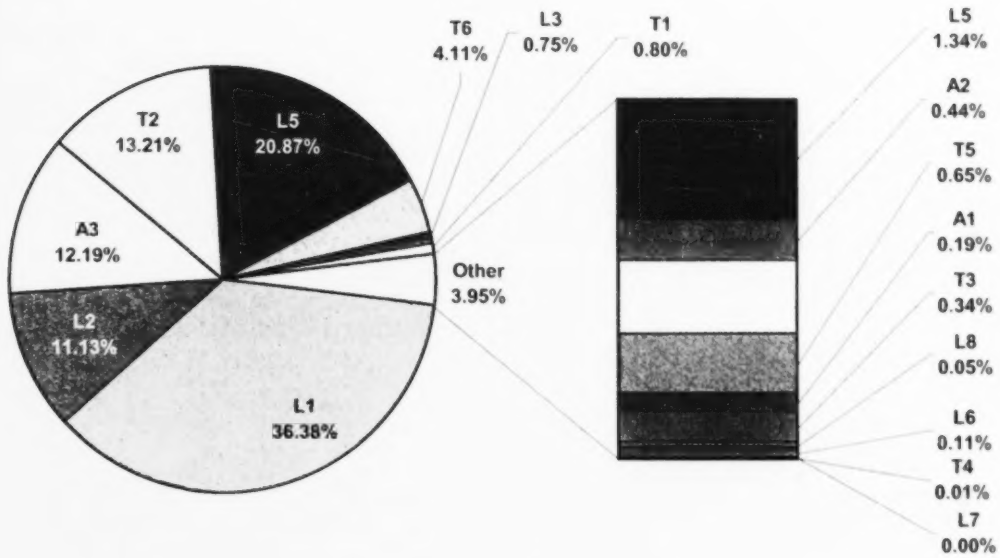
Distribution of Hearing Time



Case Type		# Cases	#Defaults	# Hearings	Time/Hear (minutes)	Time/Hear (minutes)
L1	L1 - Termination & Non-Payment of Rent	51,207	31,422	18,583	20	371,660
L2	L2 - Terminate Tenancy & Evict	5,495	1,109	3,598	30	107,940
A3	A3 - Combined Application	3,801	555	2,767	45	124,515
T2	T2 - Tenant Rights	3,168	0	2,250	60	135,000
L4	L4 - Terminate Tenancy: Failed Settlement	2,311	2,039	768	240	184,320
T6	T6 - Maintenance	1,331	0	932	45	41,940
L3	L3 - Termination: Tenant Gave Notice	1,054	798	385	20	7,700
T1	T1 - Rebate	589	43	411	20	8,220
L5	L5 - Rent Increase Above Guidelines	292	2	457	30	13,710
A2	A2 - Sublet or Assignment	244	50	151	30	4,530
A4	A4 - Vary Rent Reduction Amount	213	1	276	30	8,280
T5	T5 - Bad Faith Notice of Termination	119	0	111	60	6,660
A1	A1 - Determine Whether Act Applies	79	0	66	30	1,980
T3	T3 - Rent Reduction	69	0	58	60	3,480
L8	L8 - Tenant Changed Locks	15	0	9	60	540
L6	L6 - Review of Provincial Work Order	13	0	9	120	1,080
L7	L7 - Transfer Tenant to Care Home	2	0	0	120	0
T4	T4 - Failed Rent Increase Above Guide	2	0	1	60	60
		70,004	**36,019**	**30,832**		**1,021,615**

Workload for Fiscal 2003/2004

Distribution of Hearing Time



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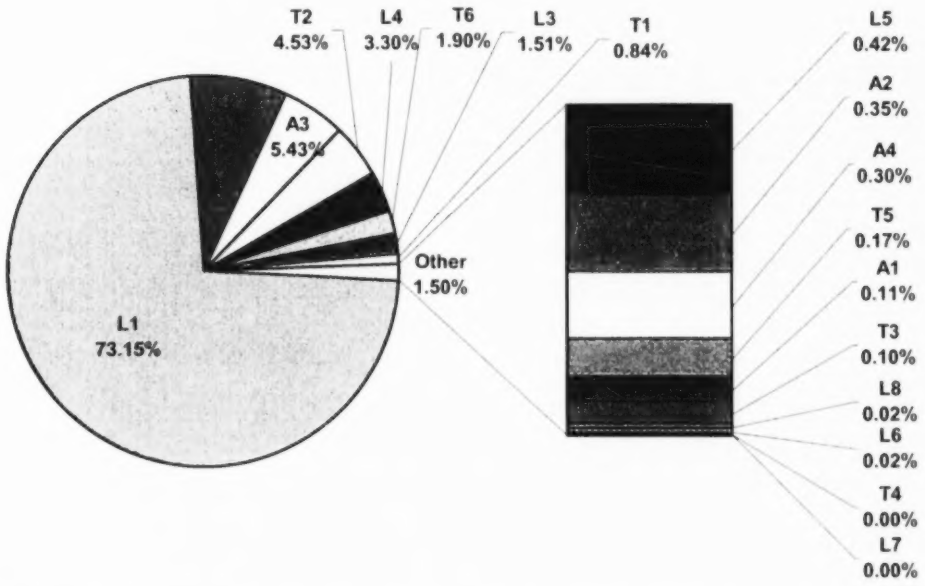
Workload for Fiscal 2003/2004
Distribution of Application Receipts



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Workload for Fiscal 2003/2004
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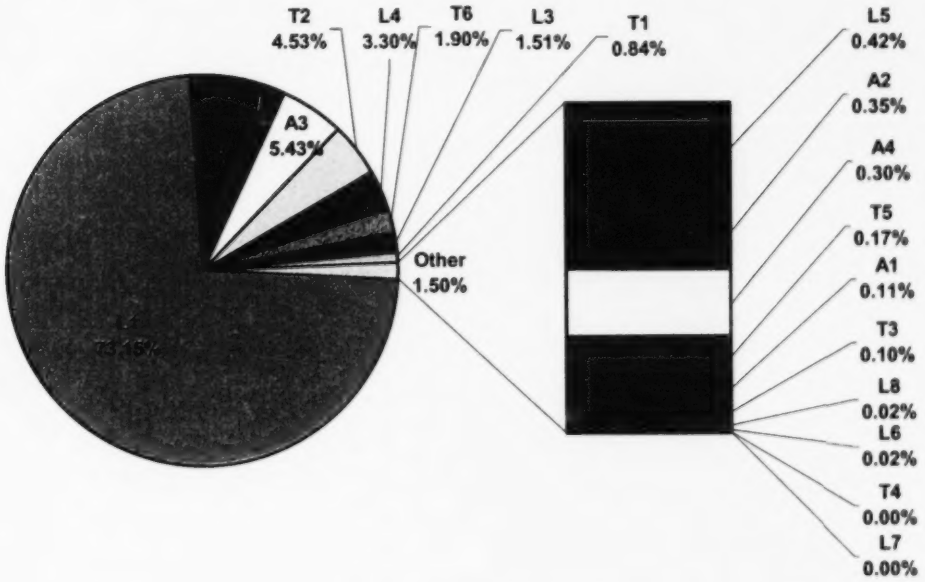

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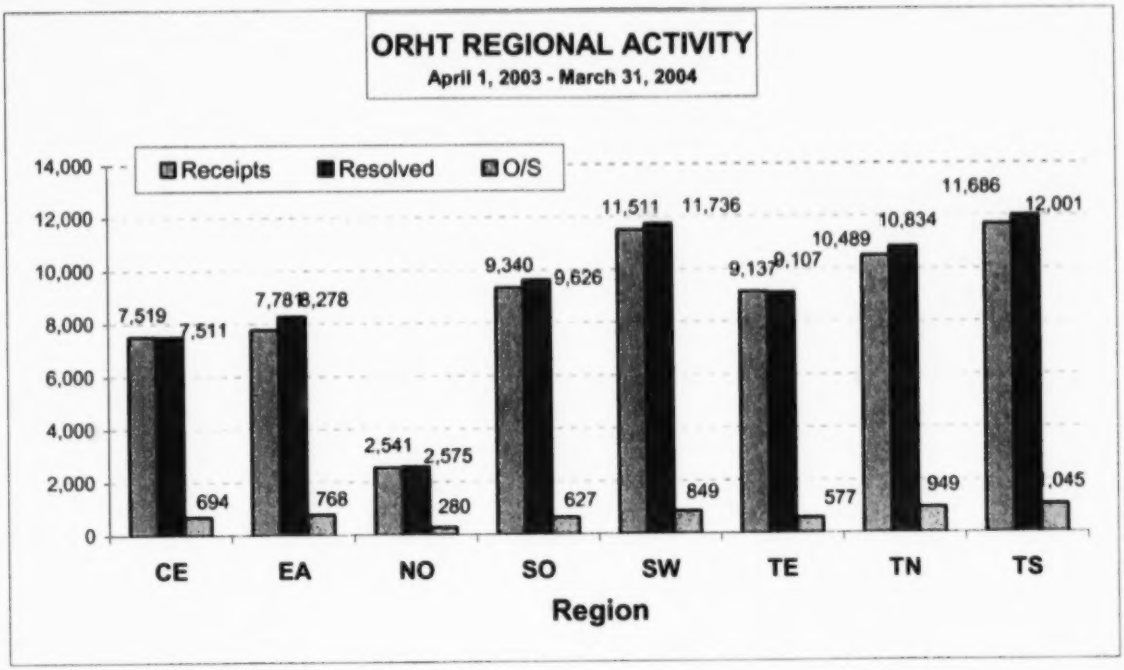
Application Resolution

The Tribunal has been successful in resolving applications quickly. On average, the Tribunal maintains only one month's receipts as open files. Most orders are issued within 20 days of filing the application and even more complex orders are issued with 25 days.

The chart below indicates that receipts and resolutions remained constant during the year.



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Tribunal Locations

The Ontario Rental Housing Tribunal has eight regional offices and nine client service offices across the province where landlords and tenants can file applications, have their questions answered by a customer service representative, and attend hearings.

Most of the Tribunal's hearings are held in its regional offices located in the following areas:

- London
- Hamilton
- Mississauga
- Toronto South (Downtown area)
- Toronto North (North York area)
- Toronto East (Scarborough area)
- Ottawa
- Sudbury

In addition, hearings are also held in the client service office in Windsor.

Alternative Service Delivery

The partnership of the Tribunal with the Ministry of Consumer and Business Services has proven to be extremely positive for both organizations and for the public as well. The Ontario Rental Housing Tribunal has benefited through the affiliation with a service network that understands how government is organized and how it operates.

This has ensured that service levels and the provision of information to the public is consistent among all offices. Essentially, the successful integration of these operations benefits from the fact that the organizations are working towards a similar set of high level business goals: the achievement of providing the public with convenient access to government services and information. In 2003, the Manager of Corporate Services for the Tribunal was awarded the Partnership Award from Ministry of Consumer and Business Services for integrating the Tribunal services and the Government Information Centres.

At Ontario Rental Housing Tribunal/Government Information Centre Co-locations, landlords and tenants can file applications, and have their questions answered by a customer service representative. The co-locations are located in the following areas:

Barrie	Kingston
Kitchener	Owen Sound
Peterborough	St. Catharines
Thunder Bay	Whitby

At Government Information Centres, landlords and tenants can file applications and supporting documents. Staff of these centres cannot answer questions about the rights and obligations of tenants and landlords under the *Tenant Protection Act;* they can, however, accept applications on behalf of the Tribunal and provide access to information pamphlets and application forms. The Tribunal uses the services of the following Government Information Centres:

Atikokan	Aurora	Bancroft	Barrie
Belleville	Blind River	Brampton	Brockville
Chapleau	Chatham	Cochrane	Cornwall
Dryden	Elliot Lake	Espanola	Fort Frances
Geraldton	Gore Bay	Guelph	Hawkesbury
Hearst	Huntsville	Ignace	Kapuskasing
Kenora	Kingston	Kirkland Lake	Kitchner
Lindsay	Marathon	Minden	Moosonee
New Liskeard	Nipigon	North Bay	Owen Sound
Parry Sound	Pembroke	Peterborough	Red Lake
Renfrew	Sarnia	Sault Ste. Marie	Simcoe
Sioux Lookout	St. Catharines	Stratford	Thunder Bay
Timmins	Whitby		

Statistically the Government Information Centre Processing Unit receives on average 220 applications per month in total from the above listed locations. These office locations provide our clients with convenient access to government services, particularly in Northern Ontario. The Tribunal has been able to reduce operating costs through the use of the full Government Information Centre Network.

Call Centre

The Tribunal has a virtual call centre for handling customer inquiries. There is a toll-free number for callers who live outside Toronto (1-888-332-3234); and, in the Greater Toronto area the number is 416-645-8080. Customer service representatives are available during normal business hours. An extensive telephone script answers frequently asked questions 24 hours a day, 7 days a week. This year, the Tribunal responded to approximately 620,000 telephone calls. After hours and on weekends, a toll-free number is also available for faxing time sensitive documents and for ordering any of the Tribunal's public education brochures. These brochures are available in English and French. Selected brochures on the most important topics are available in seven other languages: Portuguese, Italian, Chinese, Punjabi, Polish, Tamil and Spanish.

The call centre continues to improve and to be an outstanding example of how technology transforms service delivery. Because of its excellence and the professional service provided by Tribunal client service representatives in the field, Cabinet Office chose the Tribunal's call centre over all others in government to handle telephone responses to the Premier's OPS-wide consultation in December through to January 2004.

E-government

The Tribunal's website (orht.gov.on.ca) is visited almost one million times each month. Making our website more accessible is an important way to ensure the total accessibility of our information to all of our clients. Clients can find information on our website about the progress of their application, the date of the hearing and whether an order has been issued. As well, all Tribunal forms are available on the website as well as through each regional and client service offices.

The Tribunal continues to take a phased approach to comply with the Government's commitment to multi-channel service delivery. The first phase allowed clients to inquire online on the status of their application; the second phase allowed for the scanning, interpretation and processing of applications; the third phase allowed for a large majority of applications to be processed through teleform. The Tribunal will further enhance its high quality service for clients by introducing electronic filing capabilities. This innovation would give landlords and tenants another way to file applications under the *Tenant Protection Act.*

ORDER SUMMARIES

Tenant Application **Section 144**

The tenant received a notice for a 6.9% rent increase. The proposed increase was greater than the provincial guideline because the landlord had applied to the Tribunal for an above guideline increase (AGI). Pending the outcome of the landlord's application, the tenant paid the full amount of the increase.

The landlord subsequently sold the building and the new landlord continued the AGI application. The resulting AGI order granted an increase which was less than the amount the tenant had paid. The new landlord refused to repay the tenant for the amount paid in excess of the order. As a result, on April 4, 2003, the tenant filed an application with the Tribunal for an order determining that the landlord charged an illegal rent for the 12-month period from Sept 1, 2001 to Aug 31, 2002.

In dispute, the landlord argued that the tenant's application should fail because it was filed more than one year after the landlord collected or retained money in contravention of the Act. The landlord also argued that pursuant to section 141, the Tribunal should not consider the period before April 3, 2002. Section 141 provides that the rent charged one or more years earlier is deemed to be lawful unless an application, in which the lawfulness of the rent is an issue, is filed within one year of the rent first being charged.

The Member was not convinced by the landlord's arguments. The Member found that section 141 was not an obstacle because an AGI application is an application in which the lawfulness of rent is an issue. In addition, the Member reasoned that since the lawful rent is determined by the AGI order, the tenant has no way of knowing whether excess rent is paid until the order is issued. It is only once the AGI order is issued and the lawful rent determined that the landlord starts to retain money in contravention of the Act. The Member, therefore, found that the 12-month limitation starts from the date of the AGI order and not the date the tenant started paying the higher rent.

The Member determined that the landlord collected rent in excess of the amount allowed by the Act. The Member also ruled that the new landlord was liable for the overpayment made to the previous owner. The landlord was ordered to pay the tenant the excess rent plus the cost of filing the application.

Landlord Application **Section 76**

The landlord applied to the Tribunal for an order to terminate the tenancy and evict the tenants because they gave a notice to terminate the tenancy.

The tenants, who are husband and wife, reside in a rental unit operated by a public non-profit housing agency. Both tenants signed a lease at the start of their tenancy, which provided that they were jointly and severally liable for the obligations under the lease. Recently, the couple decided to separate. As a result, the husband gave the landlord a hand-written note indicating his intention to vacate the unit and providing the landlord with his new address and phone number for use in the event of an emergency. The landlord treated this note as a Notice to Terminate.

Before deciding whether the note given by the husband would support an order for vacant possession, the Member considered two main issues. First, whether a joint tenant can give a notice to terminate that binds both parties, and second, whether the note signed by the husband was a notice of termination.

In considering the first issue, the Member noted that under the common law of contract, a contract could not be altered unless all parties to the contract are in agreement. The Member found that there was no specific term in the lease and no section of the *Tenant Protection Act* (TPA) or the *Social Housing Reform Act* that would put the tenancy outside the application of contract law.

In considering whether the husband's note was a Notice to Terminate under the Act, the Member observed that the husband never indicated that he wanted to terminate the tenancy, but merely indicated that he would be moving. By leaving his number in the event of an emergency, it seemed as though the husband contemplated that his family would be remaining

behind. On face value it appeared as though the husband was merely attempting to fulfil his obligation to notify the landlord of a change in the family composition.

In the order, the Member found that a joint tenant could not unilaterally terminate a tenancy of a matrimonial home. The Member also found that the note given by the husband was not intended to end the tenancy. In the alternative, however, even if the husband had intended to terminate the tenancy, the Member found that the note failed to substantially comply with the requirements of section 43 of the TPA as it failed to give 60 days notice prior to the end of the tenancy. The landlord's application was dismissed.

Landlord Application **Section 137(3)**

The landlord applied for an order to vary the percentage rent reduction determined under section 136 of the *Tenant Protection Act*. The facts of the application were not in dispute. The main issue in dispute was the proper method for calculating the total annual rents for the rental units in the residential complex.

The landlord argued that it should be able to include 'potential' rental income when calculating the total annual rents. In other words, rent that the landlord could have received from rental units (based upon the last rent charged for those units), but which was not actually received because those units were vacant for all or part of the year. In addition, the landlord argued that it should be able to include income received from "sundries", such as interest on deposits and income derived from laundry facilities in the complex. The tenants argued against these amounts being included.

The Member found that not all charges levied to a tenant and not all revenue a landlord receives from a complex constitute *rent* for rental units in the complex. The Member was not satisfied that the additional charges should be considered rent. Similarly, although the laundry room forms part of the complex, the Member found that it does not meet the definition of a 'rental unit' and therefore any revenue derived from it, could not be considered to have been derived from a rental unit.

The Member noted that the applicable regulations do not speak of 'potential' income but of the total of the annual rent amounts that were actually received during the time the units were vacant. In the Member's view, had the intent been to permit the landlord to include rent that could have been charged had the complex not had any vacancies during that year, the Legislature would have used clear language to that effect.

In their application, the landlord calculated the total rent for the base year (calendar year 2002) by taking the rent attributed to December 2002 and multiplying it by 12. The Member found that by using this method to calculate the rent revenue, the landlord overstated the total rent revenue. Since the base year was completed at the time the application was filed, the Member concluded that there was no need for the landlord to estimate the total rent revenue.

Using the *actual* rent revenue figures, an order was issued reducing the rent charged for each of the rental units by 1.71%.

Tenant Application **Section 35**

The tenant applied for an order determining that the landlord gave a notice of termination in bad faith.

According to the tenant, the landlord gave him two notices of termination. The main reason for termination cited in the notices was that the landlord wished to demolish the house.

Subsequent to receiving the notices, the tenant's unit was bombed. The unit was occupied by forensic investigators for 6 to 10 days, during which the tenant was absent. When the tenant returned to his unit, he received numerous threats by telephone. The tenant concluded that the unit was unsafe, moved out and placed his belongings into storage.

At the hearing, the tenant testified that when he walked by the unit around Thanksgiving, he saw two children playing in the back yard. The tenant did not go in and did not see anyone inside the house. The landlord disputed the tenant's testimony and argued that the tenant's unit had not been inhabited since the tenant vacated and could not be inhabited, as the roof leaked and the water had been cut off.

The Member concluded that it did not appear as though the tenant moved out because of the notices given to him by the landlord, but rather because the tenant felt insecure in his unit after the bombing. In addition, the tenant did not establish on a balance of probabilities that the landlord acted in bad faith when he gave the notices. Faced with the clear denial and contradictory evidence of the landlord, the Member did not feel that the tenant had sufficiently proved his case. The application was dismissed.

Landlord Application **Section 69**

The landlord applied for an order to terminate the tenancy and evict the tenant because he substantially interfered with the landlord's reasonable enjoyment of the residential complex by smoking cigarettes in his unit.

The tenant rents the basement of a bungalow and the landlord lives on the main floor. Since moving in, the landlord has taken several measures to reduce the flow of smoke into her unit. Despite her efforts, the landlord continues to be concerned about the smell of smoke in her unit and its effect on her health. The landlord has been complaining of frequent headaches and sinus congestion, which her doctor found could be attributed to exposure to second hand smoke.

In dispute, the tenant argued that the doctor's opinion is inconclusive and that the tenant's symptoms could be attributable to a variety of other factors.

The Member accepted the tenant's submission that the landlord had failed to prove that her symptoms result from his smoking. In addition, the Member found that since there was nothing in the tenancy agreement or in the *Tenant Protection Act* or any other legislation that would prohibit the tenant from smoking in his rental unit, the tenant had a *prima facie* right to do so.

Despite this right, however, the Member also found that the landlord was reasonable in her concern that the tenant's smoking may be affecting her health. Given the well documented health risks associated with cigarette smoke, it was not necessary for the landlord to prove that the tenant's smoking caused her symptoms. In the Member's opinion, the landlord had the right to be free of the risks of smoking in her unit and it was not reasonable for the tenant to expect to

continue smoking where he shared the air with other occupants in the complex. The Member found that the tenant's smoking substantially interfered with the landlord's reasonable enjoyment. However, the Member exercised his discretion and refused to grant the eviction order provided that the tenant stopped smoking in the rental unit.

Landlord Application **Subsection 72(10)**

The Tribunal issued an order terminating the tenancy because the tenant was in arrears of rent. The tenant paid the landlord everything required to void the eviction order, less 18 cents, and then filed a motion to void the order. The tenant's motion to void was granted upon a finding that the tenant was in "substantial compliance" with the order.

Subsequently, the landlord filed a motion to set-aside the order to void, arguing that the tenant had failed to make the entire payment required to void the order. The landlord argued that the granting of the landlord's motion to set aside the order to void was mandatory, as the Act requires that the order be set aside if the full amount set out in the order is not paid. The landlord also argued that there is nothing in the Act which allows the Member to consider substantial compliance when this type of motion is filed.

The agent for the tenant argued that this is a unique situation. This is a case about 18 cents and the Tribunal should take a common sense approach and take into account the purpose of the *Tenant Protection Act* itself, which is an Act remedial in its nature that was introduced to provide protection for tenants.

The Member was not prepared to grant the landlord's motion. The Member concluded that it was not the intent of the legislature to cause a result, whereby a tenant could be evicted from their home over a matter of pennies. The Member found that the payment made by the tenant complied with the requirements of the Act. In the alternative, however, the Member also considered the Tribunal's authority under the *Statutory Powers Procedure Act* to make such orders, as it considers proper to prevent abuse of its processes. The Member found that it was frivolous for the landlord to file a motion over a discrepancy of 18 cents and that this amounted to an abuse of process. The landlord's motion was therefore denied.

Tenant Application **Section 21.2 (SPPA)**

The tenant applied for an order determining that the landlord substantially interfered with the reasonable enjoyment of the rental unit by the tenant or a member of his household. An order was issued dismissing the application on the grounds that the issues that were the subject of this application had already been considered in a previous application filed by the tenant.

The tenant filed a request for a review of the order. The main issue under consideration in the review was whether the application was barred by the principles of *res judicata* or abuse of process.

The tenant submitted that he should not be prevented from filing this second application because, even though the facts were the same, this second application was made on different grounds. While the tenant conceded that he could have filed both applications at the same time, he argued that there is no requirement that he must do so. The tenant further argued that to hold a layperson to such a technical standard would be unfair.

The landlord on the other hand argued that the principle of cause of action estoppel requires that an applicant must bring forward the whole case relating to the cause of action at one time. The landlord further argued that any lack of knowledge on the tenant's part should not be used to override the landlord's right to a final decision in the first application. In the alternative, that landlord submitted that the application should be dismissed as an abuse in process.

The Member found that the second application was barred by the principles of res judicata. In the alternative, the Member would apply the discretionary principle of abuse of process. The Member found that the tenant, having failed in the original application, simply filed another application alleging the same facts, hoping for a different result. The tenant could have and should have filed the second application at the same time as he filed the first. The tenant's request for review of the order was dismissed and the original hearing order confirmed.

Landlord Application **Section 192**

The landlord applied for an order to terminate the tenancy and evict the tenant because she was in arrears of rent. Because the tenant did not file a dispute, a default order was issued terminating the tenancy. Subsequently, the tenant filed a motion to set aside the order.

At the set-aside hearing, the tenant argued that she was not able to participate in the processing of the landlord's application because she was unaware of the proceedings as she was not a 'tenant'. The tenant claimed that her father had signed the rental application form, which named her as a tenant, and she had never taken possession of the rental unit. She further claimed that her father had undertaken all the negotiations with regard to the tenancy on behalf of a family friend. The application was made in the tenant's name because the landlord would not have approved the person who was really the intended tenant.

After considering the evidence presented by both parties, the Member found that the tenant was fully aware of all the negotiations being conducted in her name with the landlord concerning the tenancy. As a result of the negotiations, the landlord in good faith entered into an agreement with the tenant, which gave her the right to occupy the rental unit. The Member considered the definitions of 'tenancy agreement' and 'tenant' under the Act, and concluded that even though the tenant did not occupy the unit, she was still the person who had the right to occupy the unit and therefore, she was the tenant.

The Member did not accept the tenant's argument that she was not reasonably able to participate in the resolution of the landlord's application. The tenant's motion to set aside the default order was denied.

Landlord Application **Subsection 72(5)**

The landlord applied for an order to terminate the tenancy and evict the tenants because they failed to pay the rent that they owe. The Tribunal issued an eviction order which provided that the tenants could void the order if they paid $2005 to the landlord or the Tribunal on or before April 20, 2003.

On April 17th, the tenants gave the landlord a cheque in the amount of $2004.50 plus the cash sum of 50 cents. The landlord refused to accept the payment on the grounds that the cheque was not certified. The tenants had the cheque certified and tendered the certified cheque and cash of 50 cents to the landlord on April 21st. The landlord refused to accept the payment on the grounds that the tenants were out of time. The tenants delivered the certified cheque and cash to the Tribunal and filed a motion to void the eviction order.

The Member found that the tenants had tendered the required amount to the landlord in accordance with subsection 72(4) of the Act. As a result of the payment, the eviction order was void. The Member issued a notice under subsection 72(5), acknowledging that the eviction order was void. The landlord was directed to retrieve the certified cheque and cash from the Tribunal office.

Tenant Application **Section 35**

The tenant and a potential party applied to the Tribunal for an order determining that the landlord had harassed, obstructed, or interfered with them and substantially interfered with their reasonable enjoyment.

The landlord rejected the potential party as a prospective tenant due to a poor credit rating. Subsequently, the potential party enlisted the help of a friend to apply to the same landlord for an apartment. The friend applied and was accepted as the tenant. The potential party prepared to move into the apartment, but the unit was not ready for occupancy on the agreed date. As a result, an argument ensued between the landlord and the potential party concerning occupancy, after which the landlord rejected its agreement with the tenant and returned first and last month's rent to the potential party.

In the application, the tenant and the potential party attempted to claim their lost moving expenses, storage fees and cost incurred for cable and telephone hook-up.

In making a decision, the member considered the intentions of the "tenant" and found that the tenant never intended to move into the rental unit. The tenant was merely acting as a front person for the potential party. The Member found that the potential party did not have the status

of a "tenant" and therefore, any costs, which the potential party incurred, could not be considered by the Tribunal. Since all the costs were incurred by the potential party and not by the tenant, the application was dismissed.

Landlord Application **Section 69**

The tenants have occupied the rental unit for over 21 years and were residing in the unit when it was converted to a condominium under the *Condominium Act, 1996*. At the time of registration, the three corporate owners entered into an agreement with the tenants, which provided that they would be guaranteed continued tenancy for a period of 10 years. Despite this agreement, one of the principle shareholders applied for an order to terminate the tenancy and evict the tenants because he required possession of the rental unit for his son. The applicant argued that since he was the person permitting occupancy, he met the definition of landlord and could therefore serve a notice of termination for landlord's personal use.

Although the applicant satisfied the definition of landlord, the Member could not ignore the fact that three corporations owned the unit. The Member concluded that the actions of the applicant to permit occupancy and serve notice were done on behalf of the corporate owners and not on the applicant's own behalf. Citing relevant case law, the Member was satisfied that a corporation could not give notice for landlord's own use under section 51 because this section only applies to occupation by a living person. The Member noted that even if he had agreed with the landlord's arguments, it would not be unfair in this case to refuse the eviction on the grounds that the corporate owners had guaranteed that the tenants could continue the tenancy for 10 years. The landlord's application was dismissed.

Tenant Application **Section 35**

The tenant applied for an order determining that the landlords had given a notice of termination in bad faith.

The tenant moved into the unit 5 years ago under previous ownership. The former landlord recently sold the property and served the tenant with notice of termination for the reason that the purchaser required possession of the unit for her child. The tenant, although unhappy

about the notice, moved out. A few weeks later, the tenant found out that the new landlord was advertising the rental unit.

The landlord testified that her son did intend to move into the unit, but subsequently changed his mind after deciding to move to Switzerland to be with his girlfriend. The son testified that it did not make sense for him to sign a lease with his parents when he would have to break the lease and put his parents in the difficult position of finding new tenants. In addition, the landlord's son needed to save money for the move so he couldn't see paying $1000 a month to his parents, which is what he thought his parents would charge. Instead, the son decided to move in with his girlfriend's parents, where he paid no rent. The plan to move to Switzerland later fell through.

In making a decision, the Member had to decide whether, when the notice was served, the landlord's son *intended* to move into the unit. The decision turned on the credibility of the evidence given by the landlord and her son. Although there was no direct evidence to contradict the son's stated intention, the Member found that the son's stated plan did not pass the test of plausibility.

The Member found that the landlord's son did not intend to move into the unit when the notice was served and therefore the notice was given in bad faith. The Member ordered the landlord to pay the tenant $8,400.00 which represented the increase in rent for a period of one year.

BIOGRAPHIES

CHAIR

Chisanga Puta-Chekwe

Chisanga Puta-Chekwe attended Sir William Borlase School in Marlow, Buckinghamshire, before studying law at the University of Birmingham in England. A Rhodes scholar, he received graduate degrees in law from the University of London, and in philosophy, politics and economics from the University of Oxford. Mr. Puta-Chekwe was a partner in the firm Lloyd, Jones and Collins in Zambia from 1980 to 1986, and litigated a number of human rights cases, some of which became landmark decisions.

From 1986 until 1989, he was vice president of Meridien International Bank in London, England. He then worked as an international development consultant, mostly with the Canadian International Development Agency in Ottawa from 1989 until 1994. In 1994, he served as adjudication officer and United Nations observer support officer monitoring the South African election, and in 1996 served as election supervisor in Bosnia and Herzegovina.

He spent six years with the Ontario Criminal Injuries Compensation Board, serving as a part-time board member from 1991 until 1994, and as chair of the Board from 1994 until 1997. He served as executive director of Oxfam Canada between 1997 and 1998. He also served as co-chair of the Conference of Ontario Boards and Agencies (COBA 2000).

Mr. Puta-Chekwe is a Solicitor of the Supreme Court (England and Wales), and an Advocate of the High Court for Zambia.

VICE CHAIRS

Charles Gascoyne

Charles Gascoyne graduated from the University of Windsor with a Bachelor of Arts degree in 1983 and a Bachelor of Laws degree in 1986. Mr. Gascoyne is a member of the board of directors of the Essex Law Association and a number of other local community groups.

Gilles Guénette

Gilles Guénette graduated from the University of Ottawa, Faculty of Law where he later lectured in civil procedure. He worked as a general practitioner for more than 30 years and also acted as ad hoc hearing counsel for the RCMP Public Complaints Commission. Mr. Guénette has recently practised as an arbitrator and mediator, and lectured in alternative dispute resolution at the Law Society of Upper Canada Bar Admission Course. Mr. Guénette was, until his appointment to the Tribunal, a member of the Advisory Committee of the Neighbourhood Coalition for Conflict Resolution, and the vice chair of Ottawa-Carleton Housing Authority. He is a former resident of L'Association des juristes d'expression française de l'Ontario.

Connie Holmes

Connie Holmes has a long history with the Ministry of the Attorney General. She has served as registrar of the Divisional Court, Southwest Region; hearings officer for Small Claims Court pre-trials; registrar for Landlord and Tenant Hearings, and counter services manager in London; court services manager in Stratford and Goderich; assistant to the regional senior judge for the Southwest Region, and special advisor to the assistant deputy attorney general. Ms. Holmes has been active in community service organizations such as Mission Services in London. She is a founding member of Teen Girls' Home, and the Brain Tumour Foundation of Canada (Gus Macher Tournament), and sits on the Advisory Committee of Collections for the London Historical Museums.

Mary Lee

Before coming to the Tribunal, Mary Lee served for three years as registrar and chief administration officer of the Criminal Injuries Compensation Board leading the Board through a complete reorganization of its administrative processes. Prior to that, Ms. Lee was extensively involved in training and staff development with the Ontario Provincial Police for over eight years. She also served in the Premier's Office, Correspondence Unit. Ms. Lee is an active member of the Society of Ontario Adjudicators and Regulators Training and Education Committee.

Beverly Moore

Beverly Moore graduated from Sir Wilfred Laurier University with a Bachelor of Arts degree. She later graduated from the law clerk program at Fanshawe College. Ms. Moore spent 12 years working in community legal clinics. Before coming to the Tribunal, Ms. Moore served as a vice chair with the Social Assistance Review Board.

Jeffrey Rogers

Jeffrey Rogers graduated with a Bachelor of Arts degree in English from the University of Toronto and with a Bachelor of Laws from the University of Windsor. After his call to the Bar he entered practice as a sole practitioner and practised extensively in the areas of civil litigation and real estate. In 1992, Mr. Rogers was appointed a deputy judge of the Toronto Small Claims Court and continued to adjudicate on all matters within the jurisdiction of that court until his appointment to the Tribunal.

ADJUDICATORS

Ashis Basu

Ashis Basu attended schools in England and India prior to obtaining his Bachelor of Science (Honours) in 1974 and Master of Business Administration (Distinction) in 1977 from Pune University in India. He started his career in the private sector in 1977 with one of the largest corporations in Kenya, becoming General Manager in 1983. He was also a Member of the Federation of Kenya Employers and was actively involved in negotiating and mediating many employment issues. In 1980, he served in Uganda as Member of the Project Team working with the World Bank and G7 countries responsible for economic and industrial reconstruction of the country after the restoration of democracy. Moving to Canada in 1988, he joined Citigroup, one of the world's largest financial services companies. He worked in various functions during his tenure, including Administration, Internal Control, Regulatory affairs, and Business and Systems Planning. Prior to his appointment to the Tribunal he managed all acquisitions and contracts of the organization in Canada.

Elizabeth Beckett

Elizabeth Beckett, a graduate of Osgoode Hall Law School, has spent much of her professional life in the teaching profession. Prior to taking up her position at the Ontario Rental Housing Tribunal she was a part-time professor of Law at Sheridan College and for the past ten years has taught Business Law for Canadian General Accountants. Ms. Beckett brings with her experience gained as an adjudicator to the Boards of Inquiry for the Human Rights Commission.

Jim Brown

Jim Brown graduated from Ryerson Polytechnical Institute in business administration in 1965. He then graduated with a Bachelor of Arts degree from York University in 1968. That same year, he graduated from the Certified General Accountant program. In 1971 he graduated from the Master of Business Administration program at York University. In 1971 he also graduated as a registered industrial accountant. Mr. Brown spent many years at the Toronto Telegram and was one of the founders of the Toronto Sun. Mr. Brown operated his own manufacturing company for 25 years before entering public service. He has lectured at Ryerson, Seneca College and the University of Toronto. He is also a former member of the Ontario Legislature.

Elizabeth Brown

Elizabeth Brown is an Honours graduate of Humber College in Business Administration. Ms. Brown was a small business owner for a number of years before being elected first to City of Etobicoke Council in 1991 where she served two terms, and then to City of Toronto Council in 1998. Ms. Brown has served the community in many volunteer capacities for over 30 years, including library advocacy where she was a Trustee for 12 years, including four years as Chair of the Etobicoke Library Board.

Richard Cantin

Richard Cantin served Canada Post Corporation in progressively responsible positions over a 19-year period. He was appointed Trustee with the Carleton R.C. School Board in January 1985. In November 1985, he was elected to Gloucester and Ottawa-Carleton Regional Councils. On retirement from municipal politics in December 2000, he had chaired the Regional Health and Transportation Committee, as well as the Teaching Health Unit Liaison and Home

Care Review Committees. He served on the Management Committee of the Ottawa Tourism Authority, the Gloucester Police Services Board and the Gloucester Non-Profit Housing Corporation, among others. The Association of Local Official Health Authorities was restructured during his tenure on the Management Committee and as its President.

Mr. Cantin was the Founding President of the Gloucester-Cumberland Chapter of the Heart and Stroke Foundation, an active leader and Assistant Commissioner with l'Association des Scouts du Canada and helped numerous local organizations. He recently helped create the Tweed Chamber of Commerce, serving as Secretary-Treasurer and representative on the Quinte Tourist Council. The *Richelieu Club International* recognized his many years of service to the community by awarding him the Cercle Horace Viau decoration.

A graduate of Brookfield High School in Ottawa, he received undergraduate education in Social Sciences and Labour Law at Carleton University and the University of Ottawa.

Stanley Chapman

Stanley Chapman was educated in Scotland and has experience with municipal and provincial governments in a number of capacities. Prior to joining the Ontario Rental Housing Tribunal, Mr. Chapman served for seven years as an adjudicator with the Workers' Compensation Appeals Tribunal.

Robert Côté

Robert Côté is a graduate of the University of Montreal (B.Sc.A. Chemical Engineering, 1962) and the Osgoode Hall Law School (LL.B.1990). He has worked in the chemical, petrochemical and energy fields for over 25 years. Mr. Côté was called to the Ontario Bar in 1992 and has been in private practice in the Ottawa area working primarily in the Immigration and Labour law fields.

Susan Ellacott

Susan Ellacott is a resident of the Ottawa region and served in the departments of International Trade, Consumer and Corporate Affairs, Natural Resources, and the Prime Minister's Office.

In addition, she completed the Executive Leadership Course at the Canadian Centre for Management Development, received the Canada 125 Award for contributing to the community, and the federal public service Distinctive Service Award in recognition of support to the science and technology community. Ms. Ellacott graduated from Brookfield High School and received her diploma in Business Administration from Algonquin College.

Nancy Fahlgren

Nancy Fahlgren comes to the Tribunal with over 10 years experience in administering rental housing legislation. Professional highlights include: serving as acting chief rent officer under Rent Control Programs, adjudicating issues governed by previous housing legislation, and mediating landlord and tenant rental matters. Ms. Fahlgren studied science and languages at Nipissing University and the University of Toronto.

Richard Feldman

Richard Feldman holds Bachelor of Arts, Bachelor of Laws and Bachelor of Education degrees. He is the recipient of many academic honours, including the Arnold Balins Award from the University of Toronto. He received this award for his high academic standing, his demonstrated concern for others, his perseverance, and for his leadership qualities. As a lawyer, Mr. Feldman has acted on behalf of landlords and tenants in residential and commercial tenancy disputes and rent review applications. He has experience in administrative law, civil litigation and residential real estate transactions.

Harry Fine

Harry Fine graduated from the University of Toronto (B.A. Hons.) in 1977. Following graduation, he entered his family's business full time, building the organization into one of the largest family entertainment companies in Ontario, and one of the most successful bowling companies in North America. As President of Bowlerama, Mr. Fine was active in raising money for many local and provincial charities including Big Brothers, the Variety Club of Ontario and Kids Help Phone. He was elected legislative, constitutional and business development chairs for his industry's trade association over his 16 years of service. Mr. Fine was appointed to the Ontario Rental Housing Tribunal in 2001. He is also a member of the Society of Ontario Adjudicators and

Regulators as well as the Council of Canadian Administrative Tribunals. In August of 2002, Mr. Fine was appointed to the Toronto Committee of the Federal Judicial Appointments Advisory Committee by the Minister of Justice, the Honourable Martin Cauchon. In his spare time, he is an active volunteer with the Ontario Disabled Sailors Association.

Robert Gleeson

Before coming to the Tribunal, Robert Gleeson was Manager of Provincial Offences Courts and Prosecutions for the City of Kawartha Lakes and the County of Haliburton. He has experience in Municipal, Provincial, Federal, civil and criminal Courts. Mr. Gleeson is bilingual and a former Police Inspector and Commanding Officer of Police Operations from the Montreal area. Upon taking an early retirement he subsequently moved to Ontario and became Chief of Municipal Law Enforcement for the City of Vanier and was a Prosecutor for Provincial Offences and By-Law enforcement matters for seven years. Upon leaving the City of Vanier, he was under contract to the Ministry of the Attorney General and assigned to the Ontario Superior Court of Justice. He is past Vice President (2002) of the Municipal Court Managers Association of Ontario and Director of the Central East Court Managers Judicial District, a former member of the Association of Canadian Court Administrators and the Prosecutor's Association of Ontario. Mr. Gleeson is the recipient of many academic honours, including many law enforcement related diplomas and attestations from police academies in Quebec and Ontario. He is also the recipient of the Canadian Governor General's Medal and Certificate for meritorious service to law enforcement in Canada and an Outstanding Employee Award from the Attorney General of the Province of Ontario. He has been active in community service organizations such as the United Way Campaign and is a past president of an Optimist Club. An avid boater, Mr. Gleeson is also a member of the Canadian Power Squadron.

John Goodchild

John Goodchild graduated from Queen's University in 1977 with a Bachelor of Laws degree and was called to the Ontario bar in 1979. He was engaged in private practice in both Ottawa and Kingston until 1993, later employed by the Information and Privacy Commissioner of Ontario from 1993 to 1996. Mr. Goodchild was also engaged in private practice in the United States for two years and employed by the Information Commissioner of Canada before his appointment to the Ontario Rental Housing Tribunal.

Murray Wm. Graham

Murray Wm. Graham graduated from York University in 1970 with a Bachelor of Arts degree and from Osgoode Hall Law School in 1973 with a Bachelor of Laws degree. After his call to the Bar in 1975, he practised law in the City of Toronto until 1989. From 1990 to 1998, Mr. Graham was a legal and administrative consultant to corporations in the transportation, waste management and environmental research and development industries.

David Gregory

David Gregory graduated from the University of Toronto where he received a Bachelor of Arts and Sciences degree in 1969 and a Bachelor of Laws degree in 1972. Mr. Gregory carried on a general law practice from 1974 until his appointment as a member of the Ontario Rental Housing Tribunal in 1998. Mr. Gregory has served as a deputy judge of the Small Claims Court, has actively volunteered his time on his community's Committee of Adjustment, Regional Chamber of Commerce and Economic Development Board, and is a past president of his local law association.

Knox Henry

Knox Henry was appointed as a part-time member to the Pesticides Appeal Board in 1975, which was merged with the Environmental Appeal Board in 1978. He was a part-time member until 1991 when he became full-time vice chair of the Environmental Appeal Board. Mr. Henry is one of Canada's leading horticulturalists. He has been a guest lecturer on propagation, management and environmental issues at various universities and colleges. Mr. Henry was cross-appointed as deputy mining and lands commissioner for the period 1995 to 1997 and cross-appointed as a member of the Ontario Rental Housing Tribunal in 1999.

David Hutcheon

David Hutcheon served as Vice Chair of the Environmental Review Tribunal from 1999 to 2002. He is an experienced mediator. Prior to being an adjudicator, he spent ten years in provincial and municipal government during which time he served as Deputy Mayor, Budget-Chief, and executive council member on Toronto City Council. Mr. Hutcheon was a Commissioner on the Toronto Harbour Commission and a Director of the Runnymede Chronic Care Hospital.

He has long been active in his community and is presently serving as a member of the Humber Watershed Alliance. He is a recipient of the Canadian Institute of Planners' S. George Rich 1998 award. The Commemorative Medal for the 125th Anniversary of the Confederation of Canada was conferred upon Mr. Hutcheon for outstanding and significant voluntary service to the community. Mr. Hutcheon has a Master of Public Administration degree from the University of Western Ontario and an Honours Bachelor of Arts degree in History from Rutgers University, New Jersey U.S.A. He is a Henry Rutgers Scholar.

Linda Joss

Linda Joss commenced her career in the pioneer days of child care work, graduating from Thistletown Hospital in 1961. Ms. Joss spent ten years in the child care field, supervising programmes for emotionally disturbed children, and working for the Children's Aid Society. She later joined Metro Toronto's Community Service Department as a manager of hostels. During 25 years with Community Services, Ms. Joss managed and developed programs in Metro's four major hostels, including the opening of two new large facilities. During this time Ms. Joss was a long term member and chair of the Centennial College Social Service Worker Advisory Board and an Advisory Board member participating in the creation of a new management course for social service staff at George Brown College. Ms. Joss' experience in emergency housing has offered her a depth of knowledge of housing issues and the impact of evictions.

Catherine Keleher

Catherine Keleher started with the Tribunal as a part-time Member in July, 2000, and became a full-time Member in February, 2001. Ms. Keleher served 13 years as Reeve of the Town of Palmerston. In that position, she served as a member of Wellington County Council and was elected Warden for 1994. Ms. Keleher has chaired the Town's Public Works, Administration Finance and Recreation, and Planning and Development Committees as well as the County's Administration Finance and Personnel Committee, the Wellington-Guelph Joint Social Services Committee, and has Co-Chaired the Wellington-Guelph Waste Management Master Plan Steering Committee. She has been Vice-Chair of the Wellington County Library Board and a member of the Wellington County Police Services Board and the Wellington-Dufferin-Guelph Board of Health. Her community activities include 2 years as Vice-Chair of the Palmerston and District Hospital Board of Governors and 10 years as a member of the Maitland Valley

Conservation Authority and the Board of Family and Children's Services of Guelph and Wellington County.

Edward Lee

Edward Lee graduated from McGill University where he received his Bachelor of Science degree, as well as degrees in both civil (BCL) and common law (LLB), and has practised law in both Quebec and Ontario. He has also previously adjudicated with the Adjudication Directorate of Canada Immigration.

Sonia Light

Sonia Light graduated with distinction from McGill University in 1980 where she received her Bachelor of Arts degree in geography (urban systems). She graduated from Osgoode Hall Law School in 1983 and was called to the Ontario Bar in 1985. In 1986 and 1987 she was a solicitor in the City Solicitor's office for the City of Hamilton. In 1988 she acted as legal counsel to the then Ministry of Housing's Buildings Branch. From 1989 to 1998 she was employed by the former City of North York and the new City of Toronto as a solicitor.

Janice MacGuigan

R. Janice MacGuigan is a graduate of The Institute of Law Clerks of Ontario. She practiced in the real estate field for 13 years, and later spent two years as a constituency correspondent. In addition, Ms. MacGuiigan has been an active volunteer in her community as Chair and Vice Chair of her local school council, a leader with Girl Guides of Canada and undertaken a number of community fundraising projects.

Ian MacInnis

Ian MacInnis graduated with a Bachelor of Arts degree from the University of Waterloo. He has served with the Manitoba Police Commission, the Alberta Correctional Service, the Ontario Board of Parole, and as a councillor and deputy mayor for the City of Kingston. Prior to joining the Tribunal, Mr. MacInnis was in private practice as a court agent, representing clients in Small Claims Court and out-of-court settlements. He has also been active on several community

boards and committees, including the City Revenue Committee, Kingston Access Bus, Kingston Planning and Development Committee, Community Economic Advisory Committee, and the Rwandan Orphans' Relief Fundraising Committee.

Donald MacVicar

Donald MacVicar graduated from Acadia University in Wolfville, Nova Scotia with a Bachelor of Business Administration degree. He continued his education at Dalhousie University in Halifax, Nova Scotia, where he obtained his Bachelor of Laws and Master of Business Administration degrees. He was called to the bar in Nova Scotia and Ontario. From 1988 to 1998, Mr. MacVicar was in private practice in the Toronto area. Since June of 1998, he has been a full-time member of the Tribunal, in Toronto.

Steve McCutcheon

Steve McCutcheon graduated from Queen's University in 1979 with a Bachelor of Arts degree, and the University of Windsor in 1985 with a Bachelor of Laws degree. He was called to the bar of Ontario in 1987. He has practised law with Gardiner, Roberts in Toronto and later with smaller firms in Milton, Ontario. In between, Mr. McCutcheon operated his own business importing parts for British sports cars and also found time to serve with the Peel Regional Police for a short period of time.

Donna McGavin

Donna McGavin was a member of the Rent Review Hearings Board from 1987 until 1994. She became a vice chair of the Social Assistance Review Board in 1995 and remained at SARB until 1998. In June 1999, Ms. McGavin was appointed as a member of the Ontario Rental Housing Tribunal.

Dennis McKaig

Dennis McKaig is a graduate of Humber College in Toronto, (Funeral Service Education, 1980), and The University of Western Ontario (Bachelor of Science, 1988). Mr. McKaig worked in funeral service in Southwestern Ontario during most of the 1980s. He has been with the

Ministry of Health (Emergency Health Services) in the communications field since 1989, and has also worked on a part-time basis as a paramedic. Mr. McKaig previously has acted as a Board member and Committee Chair for Craigwood Youth Services, a children's mental health and young offender's agency. Mr. McKaig is President of London Canine Association, Inc., Canada's oldest dog club.

Brian McKee

Brian McKee graduated from Algonquin College, Management major, School of Business, in 1972. He has held senior management positions in the private sector over the past twenty-five years. He also worked as a management consultant to several large corporations and privately owned businesses from 1989 to 2002. Mr. McKee is a member of the board of directors of the Ottawa Congress Centre.

Alan Mervin

Alan Mervin attended York University, obtaining a Bachelor of Arts Degree in Sociology in 1971, and received a Bachelor of Laws (LL.B.) from the University of Windsor in 1974. Mr. Mervin joined the Ontario Legal Aid Plan, now Legal Aid Ontario, where he served as a staff lawyer in a number of capacities. Mr. Mervin left Legal Aid in 1980, to enter the private practice of law with a focus on Criminal Trial Practice. He has been involved for a number of years in community volunteer work where he has undertaken a number of projects.

Beatrice Metzler

Beatrice Metzler is a graduate of Lakehead University, specializing in Education. She went on to obtain her accreditation in Association Management. Beatrice held the positions of General Manager of the Thunder Bay Chamber of Commerce and then Executive Director of the Thunder Bay area Industrial Training Organization. Following her career in association management, she established her own Project Management business. She has been an active director on several business, professional and community boards, both locally and provincially. She is a Trustee with the Lakehead District School Board where she serves as Chair of Audit, Budget and Policy.

Christina Budweth Mingay

Christina Budweth Mingay graduated from McMaster University with a Bachelor of Arts and Bachelor of Laws (LL.B.) from Queen's. Ms. Budweth Mingay was in private practice until 1991 with a focus on civil litigation. During the period 1991 to 2001, she practiced law with the Law Society of Upper Canada. She has been involved for a number of years in community volunteer work and has undertaken a number of fund-raising and other projects.

Brian Nicholson

Brian Nicholson joined the Tribunal following 15 years of public service, as Regional Councillor with the City of Oshawa and the Regional Municipality of Durham. As a Councillor, Mr. Nicholson served as chair and/or member of several committees and related organizations and has experience in managing all aspects of diversified public sector operation. Recently, as owner/chief consultant of a consulting firm, Mr. Nicholson has been involved in all aspects of policy development and governmental relations. He has been a guest lecturer in journalism and government relations at Durham College. Prior to his elected service, Mr. Nicholson spent five years as a Correctional Officer with the Ontario Ministry of Correctional Services.

Brian Rodenhurst

Brian Rodenhurst graduated from the University of Guelph with an Honours Bachelor of Arts degree and from the University of Windsor with a Bachelor of Laws. He was in private law practice for 20 years. Mr. Rodenhurst is the former mayor of the Town of Ingersoll, and chair of Ingersoll Police Services. He is a former member of the County Council, County of Oxford, and vice chair of administration and finance.

Pina Sauro

Pina Sauro graduated from Toronto's Ryerson University with a Bachelor of Social Work Degree and a Diploma in Human Psychology. Ms. Sauro has 17 years' experience in municipal government with the City of London. While there, Ms. Sauro held a variety of roles including policy and program development, training, communications, organizational development, financial assistance, and funding allocation. Ms. Sauro's focus has been in the field of community and social services for children, youth, families, and seniors, including social

assistance, recreation and long-term care. Through her role in the allocation of provincial and municipal funding, Ms. Sauro had the opportunity to work with many community organizations to address community needs in areas such as child care, homelessness, mental health, diversity, and street youth services.

Guy Savoie

Guy Savoie has held numerous senior management positions within both the financial and business sectors for the past 17 years. Since 1990 Mr. Savoie is also a Professor at Seneca College teaching a diverse business subject portfolio within the undergraduate and post diploma business and marketing programs.

Sherry Senis

Sherry Senis has 12 years experience managing all aspects of a diversified business portfolio. As a former owner/broker of a real estate firm, she managed human resources, liability management, company structuring and business planning. As well as receiving her certificates in business administration, mortgage financing, property law and appraisal, she obtained her designation as a market value appraiser (MVA) in 1995.

Recently, as a municipal councillor, Ms. Senis served as chair and/or member of several committees; director of the Social Development Council; vice chair of the Pickering Hydro Liaison Committee; and member of the Personnel and Performance Appraisal Committee. Since the Tribunal's inception, Ms. Senis has been appointed team lead for the adjudicators dealing with operational review recommendations, and is a member of the Performance Management Committee and the Caseload Order Group Committee.

Catherine Skinner

Catherine Skinner is a graduate of the University of Toronto, Faculty of Law and the University of Winnipeg, where she received a Bachelor of Arts Honours degree in French and classics. She is a member of the Law Society of British Columbia and the Law Society of Upper Canada. Prior to joining the Ontario Rental Housing Tribunal, Ms. Skinner was legal counsel to the Ontario Assessment Review Board.

Peter Spadzinski

Peter Spadzinski was an educator for over 30 years, serving as teacher, consultant and administrator in both elementary and secondary panels. A graduate of Laurentian University and the University of Waterloo (History, Politics, French) Mr. Spadzinski has been on municipal council for 15 years, 12 as Reeve. During that time he was also member of the Parry Sound and Area Planning Board, serving as chair for three years. He has been involved in a variety of community organizations as a volunteer.

Cynthia Summers

Cynthia Summers is a graduate of McMaster University in 1988 with a Bachelor of Arts degree in Political Science, and in 1995 she received her Master's in Social Welfare Policy. Ms. Summers has extensive experience in the social service field and in working with a diverse clientele. She has worked with social assistance recipients, and mentally and physically challenged children and adults. Her experience includes representing the Ministry of Community and Social Services as a case presenting officer before the Social Assistance Review Board. Most recently, she was a professor in the School of Community Services at Sheridan College.

Julius Suraski

Julius Suraski is a practicing insurance broker with an extensive background in accounting, claims management and dispute resolution. Mr. Suraski is a graduate of the University of Toronto (Bachelor of Commerce degree in 1972), the Canadian Institute of Chartered Accountants in 1974, and York University in 1998, holding a Certificate in Dispute Resolution. He is a member of the Arbitration and Mediation Institute of Ontario. Mr. Suraski is a co-founder of the Collision Industry Standards Council of Ontario and an industry spokesperson, promoting consumer protection through the implementation of safe repair standards and ethical business practices. He has published several works including *Audit Programs for Colleges and Universities* (1984) and *The Decline of the Auto Repair Industry in Ontario* (1997). He is a frequent contributor to various insurance trade publications. Mr. Suraski is committed to community service and has contributed in excess of 4,000 hours of volunteer service at the Baycrest Centre for Geriatric Care in Toronto.

George Taylor

George Taylor is a graduate of McMaster University and Osgoode Hall Law School. He has carried on a general law practice in Barrie since 1968. Mr. Taylor has served as a Deputy Judge of the Small Claims Court, and was a member of the Legislature of Ontario from 1977 to 1985. He is also qualified as an arbitrator and mediator. In addition, Mr. Taylor has been involved for many years in community service work and numerous professional organizations.

Gerald Taylor

Gerald Taylor has many years of administrative background, having worked in banking, automotive and information technology industries. During his career Mr. Taylor held positions of significant responsibility and decision making. He also dedicated considerable time to community activities such as Junior Achievement, United Way, Local and Ontario Chambers of Commerce and Durham Enterprise Centre for small business.

Diane Tinker

Diane L. Tinker is a graduate of McMaster University with a Bachelor of Arts degree and Queen's University at Kingston with a Bachelor of Laws degree. After her call to the bar in 1981, she was in private practice for two years and then became in-house counsel for 14 years. Ms. Tinker has been a deputy judge in Small Claims Court in both Kitchener and Cambridge for the past six years.

Christopher Trueman

Christopher Trueman has been actively involved in both the public and private sectors. In 1994, Mr. Trueman was elected to serve as a school board trustee with the Haliburton County Board of Education. Mr. Trueman spent many years in the private sector as the owner of an equipment leasing company. In 2001, after completing studies through the University of Waterloo and Osgoode Hall Law School, he established a private practice in the field of Alternative Dispute Resolution. He is a former member of the ADR Institute of Ontario and the Association for Conflict Resolution in Washington D.C. Mr. Trueman continues to participate as an advisor and volunteer with a number of community organizations in Haliburton County.

Michael van Dusen

Michael van Dusen is a graduate of the University of Ottawa (B.A.1982(*cum laude)*, LL.B. 1986). He practised with the firm of Goldberg, Shinder, Gardner & Kronick until 1997 when he joined Messrs. Burke-Robertson. He continues to carry on an active practice with particular emphasis on insurance and commercial litigation. Mr. van Dusen is directly involved in several local charities and continues to devote much of his spare time to community fundraising. He was appointed as a part-time member of the Ontario Rental Housing Tribunal on February 01, 2001, assigned to the Eastern District Office.

Andreas von Cramon

Andreas von Cramon is a graduate of Osgoode Hall Law School. He practised law in Brockville, after his call to the Law Society of Upper Canada in 1991, until his appointment to the Ontario Rental Housing Tribunal. He is a past member of the Ontario Consent and Capacity Board.

Rosa Votta

Rosa Votta has worked in various departments of the provincial government, including Health, Citizenship, Culture (Tourism) and Recreation and several branches of the Ministry of Labour, namely the Health and Safety Branch and most recently the Employment Standards Branch, as an Employment Standards Officer, administering and enforcing the *Employment Standards Act*. Ms Votta has been actively involved, as a volunteer, with various organizations participating in a number of community fundraising activities and projects.

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